



Administrative Memorandum

Nebraska Supreme Court
State Court Administrator
P. O. Box 98910
Lincoln, NE 68509
402-471-3730

DT: April 2004
RE: Administrative Memorandum 04-002

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*John V. Hendry,
Chief Justice*

*Frank E. Goodroe,
State Court Administrator
fgoodroe@nsc.state.ne.us*

◆ BUDGET UPDATE

The legislative session concluded on April 15 after a flurry of action in the closing days of its 60-day session, which began on January 7, 2004. A number of bills were carried over from the last session and new ones introduced that were of interest to the judiciary.

The second year of the biennium budget was the highest priority for the Unicameral this session. Due to the serious revenue shortfall and revenue forecasts, the Governor proposed reductions ranging from 1 – 2.5% for most state departments, in the Executive Branch and in the Legislative and Judicial Branches. A 2.5 % reduction for the Court and Probation Administration would have totaled nearly \$1 million and would have resulted in cutbacks of staffing, services, and programs.

Chief Justice Hendry, State Probation Administrator Ed Birkel, and members of the State Court Administrator's Office staff devoted significant time and effort to communicate the impact that such budgetary reductions would have on the Probation program and the courts overall.

The leadership of the Appropriations Committee, chaired by Sen. Roger Wehrbein, the Judiciary Committee, chaired by Sen. Kermit Brashear, and the many members of each committee, were accessible and listened to the position of the Court and Court Administration.

The budget that was adopted does not include the 2.5% reduction. While this is excellent news, it should be noted that the overall funding level for fiscal year 2004-05 is basically flat over fiscal year 2003-04.

As of this writing, sufficient funding existed for the State Court Administrator to recommend to the Supreme Court a salary increase of 2%, effective July 1, 2004, for judiciary employees. Official court reporters are on a different salary schedule, therefore, the adjustments for them are slightly different. Salary adjustments for employees of the Supreme Court and Court of Appeals require approval of the Supreme Court.

For the second year in a row, the state appropriation will not allow for the employee step increases that are normally approved in January.

Questions concerning the now completed legislative session or court budgets may be directed to Frank Goodroe at 402-471-3730 or fgoodroe@nsc.state.ne.us.

◆ LEGISLATIVE UPDATE

Bills Passed and Approved By Governor 2004 Session

- **LB16** Changes the registration provisions for limited liability organizations
- **LB172** Repeals section requiring schools to provide parental notification information
- **LB208** Amends the DUI and Implied Consent statutes
- **LB227** Creates infraction for having minors in vehicle space not meant for passengers
- **LB353** Learner permits and school permits may be ordered suspended by the court as well as revoked
- **LB439** Creates the State Capitol Commission with the State Court Administrator as a member
- **LB454** Authorizes drug court programs
- **LB607** Allows auditor to do performance audits
- **LB884** Changes requirements for corporate surety bonds for certain state officers

- **LB940** Eliminates a probation committee
- **LB943** Eliminates statute of limitations for sexual assault of a child
- **LB1005** Adoption home studies are to include a search of national criminal history records
- **LB 1097** Passed by the Legislature on the last day of the 2004 legislative session. Amended into the total bill was the spousal benefit sought by the judges' associations throughout the session. For more information on the new benefit, see **Highlights of LB 1097** in this memo.
- **LB1118** Changes powers and duties of auditor
- **LB1179** Changes provisions relating to electronic communications and public meetings
- **LB1162** Continues the LEIF fee
- **LB1207E** Modifies language in civil statutes, *amended to include LB788, LB882, LB887, LB1035 and LB1157, LB877, LB1068, LB1210, LB1182. Emergency clause, effective April 15, 2004 except Sec. 1, (LB 877) has an effective date of July 1, 2004.*

The legislation changes provisions relating to civil procedure by providing a uniform rule for post trial motions. Current language provides that a motion for a new trial shall be filed no later than 10 days after entry of judgment. New language provides ... A motion to alter or amend a judgment filed after the announcement of a verdict or decision but before the entry of judgment shall be treated as filed after the entry of the judgment and on the day thereof. The bill cleans up language in forcible entry and detainer actions and amends sections dealing with divorce and dissolution terminology.

Amended into LB1207 were the following bills:

- **LB 788** A judgment creditor is entitled to an order requiring the debtor to appear and answer in the court where the debtor resides, if the debtor does not reside in the state where the judgment was rendered or in which a transcript of judgment has been filed.
- **LB 882** In forcible entry and detainer actions when regular civil service is unsuccessful and an affidavit is filed stating why the service was unsuccessful, service may be made by a person leaving a copy of the summons at the defendant's last known address and by mailing a copy by first class mail to such address.
- **LB 887** A supersedeas appeal bond shall be the lesser of the judgment, costs and interest or fifty percent of the appellant's net worth or fifty million dollars.
- **LB1035** Changes forma pauperis provisions. An objection to a forma pauperis may be filed anytime if the ground for the objection is that the initial application was fraudulent.
- **LB 1157** In bankruptcy and executions the legislation exempts the full amount of any federal or state earned income tax credit refund from garnishment, attachment and all creditor claims.
- **LB 877** The legislation changes the composition of the first and tenth district court judicial districts by moving Clay and Nuckolls counties from the tenth to the first judicial district. This section of the bill has an effective date July 1, 2004.
- **LB 1068** Authorizes the disclosure of presentence reports and psychiatric examinations to the Nebraska Supreme Court or its agent for research purposes.
- **LB 1210** Changes the references of the Nebraska State Bar Counsel for Discipline to the Counsel for Discipline of the Nebraska Supreme Court.
- **LB 1182** Allows the Supreme Court to relocate a district or county judge within his or her judicial district and pay reasonable moving expenses of the judge when relocated.

◆ HIGHLIGHTS OF LB 1097

Under the new benefit, the surviving spouse of a retired judge would be entitled to receive a monthly benefit of 50% of the amount the judge received, and there would be no actuarial reduction or other assessment to the retired judge in determining this benefit cost if the spouse was not more than 5 years younger than the retired judge. If the spouse was more than 5 years younger, this benefit would be reduced by the actuarial cost of only those years greater than 5.

A current judge who chooses to opt into this benefit, but has not yet reached the maximum benefit under the Judges Retirement Plan, will pay 8 %, rather than the current 6%, of his or her monthly compensation until the maximum benefit is reached, then after that maximum is reached will pay 4% until the end of his or her active service. For those current judges who have already reached the maximum benefit and choose to opt into this

benefit, he or she will pay 4%, rather than the current 0%, of his or her monthly compensation for the remainder of his or her active service.

Section 40 of LB 1097 provides that the operative date of the relevant sections of LB 1097, §§ 7 through 20, is July 1, 2004. Section 9 of the act provides that changes in judges' retirement benefits will take affect as soon as may be paid under the Constitution of Nebraska. Judges will have 90 days after July 1, 2004, to let the Retirement Board know whether they choose to opt into or out of the new plan on forms which will be provided by the Retirement Board.

✓ These changes will affect county court clerk magistrates who are members of the Judges Retirement Plan.

To learn more, plan to attend one of the retirement seminars next month presented by the Nebraska Public Employees Retirement Systems (NPERS). The seminars are open to all active members of the Judges Retirement Plan and will be held in Lincoln on June 16 at the Villager Courtyard & Gardens and in Kearney on June 24 at the Holiday Inn. You are welcome to attend the date/location which works best for you. To register, return the registration form previously mailed to you by Marcie Brush at the State Court Administrator's Office.

◆ JUDICIAL DISTRICT VISITS

Summer tour planned.

The State Court Administrator's Office staff including JUSTICE team members will be traveling to all 12 Judicial Districts during the summer months. The visits will allow the new State Court Administrator to become more familiar with statewide trial courts. Time will be set aside to meet court personnel, judicial officers, clerks of the district court, clerk magistrates, and county officials. A schedule of the visits will be released shortly. Janet Hammer Bancroft will coordinate the visits.

◆ JUSTICE/NEBRASKA@ ONLINE

Public access to records through Nebraska@ Online services for first quarter of 2004.

Nebraska@ Online reports its customers retrieved case information 50,549 times during March, 2004. This service has been available since January 5, 2004, but the access fee was waived for January and February.

State government users, who do not pay for access, retrieved information on 6,501 cases during March. Customers who pay a fee for each record retrieved 19,912 cases. The remaining 24,136 cases were retrieved by those who pay a flat fee.

Records have not always been available over the Internet. If a court employee spent one minute per case to provide this information for a citizen who phoned or came to the court office, these searches would have required over 100 days of employee time for the inquiries made during March. While courts have not had adequate staff to provide this information over the phone or in person, the use of the NOL service reveals the demand for this information and shows the level of staffing which would be needed without automation.

◆ COURT INTERPRETER ADMINISTRATION

Interpreter exam prep courses offered.

The State Court Administrator's Office of Court Interpreting is sponsoring a distance learning tutoring project for sixteen court interpreters; fourteen Spanish, one Vietnamese and one Russian interpreter. The interpreters will participate in an hour and half telephone conference call each Friday afternoon for six consecutive weeks commencing on May 7, 2004. The objective of the project is to assist these individuals in preparing for and passing upcoming oral and written exams. The sessions will be conducted as if the interpreters were in a classroom. They will have study assignments to complete between sessions as well as participating in study groups with each other. These interpreters are currently working in our courts and have shown excellent promise to become Nebraska certified court interpreters.

The project is being presented by Agustin de la Mora, who is a federally certified court interpreter from Orlando, Florida. Mr. de la Mora presented the 2003 Interpreter Orientation and Skills Training sessions held last

September in Lincoln. He is a nationally recognized speaker and presenter at various state interpreter and court associations. He is a supervisor rater for the Consortium and the lead rater for the Federal interpreter exam. Mr. de la Mora states that this type of session has never been presented before and hopes it may turn into a model for him and other instructors to emulate. For further information, contact Associate Administrator Ken Wade at 402-471-2671 or kwade@nsc.state.ne.us.

◆ PROTECTION ORDER INFORMATION

Instructions mailed to all courts.

New informational materials on protection orders are being mailed to all court administrators, judicial administrators, county court clerk magistrates, and all clerks of the district courts. Included are user-friendly instructions for filling out petitions for protection orders and requests by respondents for hearings. Brochures for both the petitioner and respondent explaining how protection orders are processed through the court system are also included.

This material is intended to be a resource for clerks to use to help improve the public's understanding of protection orders and the role of the courts in domestic violence cases. An attempt was made to use language that is easily understood by individuals unfamiliar with the court system.

You will note we have included Spanish and Vietnamese versions of all information. All material on yellow paper is for the respondents and all material on green paper is for the petitioners. These materials are products of a Violence Against Women Act (VAWA) grant awarded to the Nebraska Supreme Court from the Nebraska Commission on Law Enforcement and Criminal Justice. Many of you were introduced to these materials at your meetings last summer.

This information is also now available on the Nebraska Judicial Branch web site (www.nebraskacourt.com) in the Self-Help section. Please be aware that all court forms need to be completed in English using the approved court forms. This information should be accessible in your offices for the public and should be distributed to anyone requesting information about protection orders or domestic violence. If you have questions, please contact Judy Beutler at 402-471-2921. Additional materials will be available, upon request.

◆ FILING AND REPORTING REQUIREMENTS

Below are some of the deadlines for filing certain reports. Our objective is a 100% response rate.

Judicial Financial Interest Statements: Due May 1 for all full-time individuals subject to the Judicial Code of Conduct

Judicial Office Holder's Retention Application: Due August 1 (if you are up for retention)

Judges' Cases Under Advisement Reports: Due by the 5th day of each month (reports are compiled and submitted to the Supreme Court).

Report of Probate Cases Pending: Due by the 10th day of each month.

Court Reporter Timesheets: Due by the 5th day of each month (judges are to sign time sheets prior to submission).

Court Caseload Monthly Statistic Reports: Due by the 10th day of each month.

County Court Time Sheets: Due by the 10th day of each month.

Stenographer Transcription Reports: Due by the 10th day of each month.

Cash Drawer Short/Long Transactions (County Court only): Due by the 10th day of each month.

Permanently Assigned Vehicle Logs: Due by the 5th day of each month.

Expense Vouchers: Submit on a monthly basis (rather than combining several months of expenses on one voucher)

Statement for Payment of Interpreters: Interpreter to submit between the 1st and 7th day of each month.

◆ STATISTICS

County Court Case Filings

Total Filings by Year

1995 434,282
 1996 396,708
 1997 374,079
 1998 376,285
 1999 383,930
 2000 390,654
 2001 385,995
 2002 412,651
 2003 408,829
 *2004 **93,047**

* First quarter, January 1 – March 31, 2004

2004 First Quarter Filings by District

Jud. Dist.	Misd/Ord Traffic	Misd/Ord Non-Traffic	Felony	Civil	Small Claims	Probate/ Inher Tax	Guard Cons	Adoption	Juvenile	Totals
1	1,953	859	86	649	78	101	18	15	114	3,873
2	5,236	2,468	331	1,004	98	84	43	20	56	9,340
3	4,920	5,348	402	2,612	225	186	56	36	0	13,785
4	5,388	8,665	905	5,387	497	334	187	54	0	21,417
5	3,073	1,735	168	1,153	159	148	35	10	281	6,762
6	2,740	1,585	191	825	134	149	23	8	149	5,804
7	2,112	1,251	101	477	106	108	21	6	107	4,289
8	1,438	641	62	497	119	84	19	15	59	2,934
9	2,105	1,816	186	1,631	126	74	24	12	168	6,142
10	1,828	907	118	848	103	111	35	17	165	4,132
11	4,792	1,619	278	1,048	203	125	39	10	273	8,387
12	3,063	1,684	167	680	171	121	41	13	242	6,182
Total	38,648	28,578	2,995	16,811	2,019	1,625	541	216	1,614	93,047

District Court Case Filings

Total Filings by Year

1995 35,330
1996 35,261
1997 36,709
1998 38,117
1999 38,330
2000 37,915
2001 39,201
2002 40,796
2003 41,038
***2004 10,373**

*** First quarter, January 1 – March 31, 2004**

2004 First Quarter Filings by District

Judicial District	Criminal	Regular Civil	Domestic Relations	Appellate Action	Totals
1	57	84	265	19	425
2	262	120	474	32	888
3	256	285	853	44	1,438
4	701	621	2,128	119	3,569
5	103	118	377	21	619
6	86	102	293	13	494
7	98	55	234	15	402
8	44	41	127	6	218
9	124	80	359	28	591
10	66	89	230	28	413
11	150	156	347	14	667
12	96	113	414	26	649
Total	1,342	1,243	3,973	246	10,373

◆ CHANGES IN COURT ADMINISTRATORS

Administrative changes at trial court level.

Judicial Administrator, Lancaster County Court

Becky Bruckner started work at the Lancaster County Court on November 5, 2004, as Judicial Administrator. She succeeded Peggy Gentles who accepted a position as Court Executive, 3rd District Court, Salt Lake County, Utah. Prior to joining the court system, Becky worked in the area of personnel administration, the last 9½ years of which was with Goodwill Industries. She moved to Lincoln 13 years ago from Montana. Ms. Bruckner can be reached at 402-441-7291 or bbruckner@ci.lincoln.ne.us.

District Court Administrator, Douglas County District Court

Douglas County Court Administrator, Doug H. Johnson, received his M.S. in Judicial Administration from the University of Denver, College of Law in 1987. He succeeded Frank E. Goodroe as Administrator in February, 2004. For the past 12 years he served as District Court Administrator of South Central Judicial District of North Dakota. Mr. Johnson can be reached at 402-444-7004 or dhjohnson@co.douglas.ne.us.

Juvenile Court Administrator, Separate Juvenile Court of Douglas County

In the summer of 2003, Marita Grebl was appointed as the Douglas County Juvenile Court Administrator. She is a familiar face around courthouse rotunda, having worked in multiple roles in juvenile court since June of 1985. Ms. Grebl can be reached at 402-444-7885 or mgrebl@co.douglas.ne.us.

◆ Judicial Branch Web Site (www.nebraskacourt.com)

New Self-Help Section

Log on to the new Self-Help portion of the Judicial Branch web site to see the Small Claims interactive form and Protection Order instruction area. The section is designed to enhance the ability of courts to distribute information in our two traditional pro se areas: Small Claims and Protection Orders.

If you know of valuable on-line resources, please e-mail the NJB Webmaster (Janet Hammer Bancroft) using the link on the Self-Help site.

Administrative Memoranda Now Available

The Court Administrator's Office Administrative Memoranda are now available on the Judicial Branch web site. You can find the index using the link below or by going to the site and clicking under **Court Administrator's Office** or **For the Court Community** on the main page, left hand menu.
www.nebraskacourt.com/AOC/adminmemos/scao_memopage.cfm

◆ UPCOMING MEETINGS/ACTIVITIES

Mark your calendar.

JUSTICE training for county court employees, May 17 – 21, North Platte

JUSTICE training for district court employees, May 25 – 27, Lincoln

JUSTICE training for district court employees, June 8 – 10, North Platte

County Judges Summer Meeting, June 16 – 18, Lincoln, Villager Courtyard & Gardens

District Judges Summer Meeting, June 23 – 25, Kearney, Holiday Inn

Separate Juvenile Judges Summer Meeting, June 23 – 24, Kearney, Holiday Inn

Official Court Reporters Summer Meeting, June 23 – 25, Kearney, Holiday Inn

Contact Marcie Brush, 402-471-2249 or mbrush@nsc.state.ne.us, for registration information on any of the above programs.

Nebraska Association of Transcribers and Interpreters (NATI) Conference, August 12-14, Grand Island

For more information, contact Mercedes Ayala, Conference Committee Chair, at 308-385-5014 or Mercedes@cn-ahc.org.